IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

MFA.No. 95 of 2007()

WCC.24/1995 of W.C.C.,KOTTAYAM
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APPELLANT - OPPOSITE PARTY:

V.J. MATHEWS,
MANAGING DIRECTOR, CHANCELLOR PAPER MILLS LTD.,
LEETHA INDUSTRIES BUILDINGS, MOJOR INDUSTRIAL ESTATE, SOUTH KALAMASSERY, ERNAKULAM DISTRICT, PIN-682 109.

BY ADV. SRI.S.RAMESH BABU

RESPONDENTS - APPLICANT:
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1. SUNNY K.M., S/O. K.V.MATHEW,
KUKRUPPAN HOUSE, VENGORE VILLAGE,
KUNNATHUNADU TALUK.

2. THE COMMISSIONER FOR WORKMEN'S COMPENSATION (DEPUTY LABOUR COMMISSIONER) KOTTAYAM.

BY ADV. SRI.C.J.JOY
BY GOVERNMENT PLEDER SHRI BASANT BALAJI, R2

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 17/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 95 OF 2007

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Dated this the 17th day of October, 2007

J U D G M E N T

Heard. Admitted. Advocate Shri C.J. Joy takes notice for the first respondent and Government Pleader takes notice for the second respondent. The appeal itself is heard and disposed of as agreed to by both sides.

2. First respondent was a workman of the appellant Company. He filed a petition claiming compensation alleging that he sustained an employment injury. Shri V.J.Mathews, who was the Managing Director of the Company was impleaded as the owner. The Deputy Labour Commissioner allowed the petition and made the appellant in this appeal in his personal capacity liable for the compensation awarded. He was impleaded as the opposite party as he was Managing Director of the Company. This appeal is filed challenging that part of the order.

3. The fact that the first respondent was the workman of the Company is established. He sustained an employment

injury during the course of employment is also proved. The Deputy Labour Commissioner found that the first respondent is entitled to an amount of Rs.16,472/- as compensation and directed the appellant to deposit the amount.

4. Pleadings in this case itself show that the first respondent was employed by the Company and Mr.V.J.Mathews was the Managing Director of the Company. So the Company, represented by its Managing Director, should have been made liable for the compensation awarded. To that extent, the order passed by the Deputy Labour Commissioner is to be modified.

5. In the result, appeal is allowed in part. The order directing the appellant to pay the amount awarded is hereby modified. M/s.Chancellor Paper Mills Ltd., Leetha Industries Buildings, South Kalamassery, represented by its Managing Director, is made liable for the compensation awarded. If the appellant had deposited any amount in his personal capacity, the same shall be refunded to him.

It is submitted by Shri S.Ramesh Babu, learned counsel appearing for the appellant that the Company in this case is under liquidation and the assets of the Company are in the

custody of the Official Liquidator. It is open to the first respondent to approach the Company Court for receiving the compensation in accordance with law.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 95 OF 2007

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J U D G M E N T

17TH OCTOBER, 2007